

REMARKS

In light of the following remarks and above amendments, reconsideration and allowance of this application are respectfully requested.

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 USC §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

Amended claims 1-16 are in this application. Claims 17-40 are newly added.

At paragraph 2 of the outstanding Office Action of October 24, 2003, the Examiner rejected claims 5 and 13 under 35 U.S.C. § 102(e) as being anticipated by Maissel et al. (U.S. Application 2003/0088872 A1). Applicants respectfully traverse the rejection.

Amended independent claim 5, recites in part, "An information receiving device adapted to communicate with a communication terminal device, said information receiving device...**wherein a program selection apparatus receives program selection information upon selection of one of said programs listed in said program guide information by said user on said communication terminal device.**" (Underlining and Bold added for emphasis.)

Maissel discloses the customization of an electronic program guide by an intelligent agent. The intelligent agent monitors the viewing behavior of viewers and creates a preference profile based on the monitored viewing behavior. (page 2, paragraph 0045) In other words, the viewer does not have the privilege of creating the electronic program guide on his/her

own because the intelligent agent does that automatically. In contrast, the independent claims of the present invention indicate that the user creates the electronic programming guide by selecting any channels the user desires. Furthermore, the user can request the electronic program guide that he/she has created by using a communication terminal device that can be operated from a remote location. Also, the communication terminal device is a two-way communication device. Firstly, it can receive the electronic programming guide data (from IRD, Internet, EPG server, etc.) and secondly it can utilize that received data to control the program selection apparatus (i.e., to act as a remote control to change the channels) at the remote location to access desired programs. Maissel does not allow the user to remotely access the electronic program guide that the user has created and also does not use a communication terminal device as a two-way communication device to utilize such EPG data at the remote location. Therefore, amended independent claim 5 is believed to be distinguishable from Maissel.

For similar reasons described above, it is also believed that amended independent claim 13 is also distinguishable from Maissel as applied by the Examiner.

Applicants therefore respectfully request the rejection of claims 5 and 13 under 35 U.S.C. §102(e) be withdrawn.

At paragraph 4 of the outstanding Office Action of October 24, 2003, the Examiner rejected claims 1-4 and 9-12 under 35 U.S.C. § 103(a) as being unpatenable over Maissel et al. (U.S. Application 2003/0088872 A1) in view of Hendricks et al. (U.S. Patent No. 6,463,585). Applicants respectfully traverse the rejection.

Amended independent claim 1, recites in part, "A program guide information providing device...**wherein a program selection apparatus receives program selection information upon selection of one of said programs listed in said program guide**

information by said user on said communication terminal device.” (Underlining and Bold added for emphasis.)

The Examiner admits that Maissel fails to disclose, “storing identification information appropriate to the communication terminal device.” The Examiner then relies on Hendricks to overcome the deficiencies of Maissel. However, Hendrick’s disclosure does not overcome the deficiencies of Maissel. Hendricks does not teach or suggest the additional limitation of amended independent claim 1.

Hendricks discloses targeting advertisements to consumers homes including monitoring, controlling and managing a television delivery network from an operation center or a cable head end (column 1, lines 52-58). In other words, the program controller that is located at the operations center performs automatic poll-back responses from the television terminals remotely located at each subscriber’s home to retrieve data on the programs that are watched. (Column 3, lines 48-58) In other words, the viewer does not have the privilege of creating the electronic program guide on his/her own because the program controller at the operations center does that automatically. In contrast, the independent claims of the present invention indicate that the user creates the electronic programming guide by selecting any channels the user desires. Furthermore, the user can request the electronic program guide that he/she has created by using a communication terminal device that can be operated from a remote location. Also, the communication terminal device is a two-way communication device. Firstly, it can receive the electronic programming guide data (from IRD, Internet, EPG server, etc.) and secondly it can utilize that received data to control the program selection apparatus (i.e., to act as a remote control to change the channels) at the remote location to access desired programs. Hendricks does not allow the user to remotely access the electronic program guide that the user has created

and also does not use a communication terminal device as a two-way communication device to utilize such EPG data at the remote location. Therefore, amended independent claim 1 is believed to be distinguishable from the applied combination of Maissel and Hendricks.

For similar reasons described above, it is also believed that amended independent claims 3, 9 and 11 are also distinguishable from the applied combination of Maissel and Hendricks as applied by the Examiner.

Claims 2, 4, 10 and 12 depend from one of amended independent claims 1, 3, 9 and 11 and, due to such dependency, are also believed to be distinguishable from the applied combination of Maissel and Hendricks for at least the reasons previously described. Therefore, claims 1-4 and 9-12 are believed to be distinguishable from the applied combination of Maissel and Hendricks.

Applicants therefore respectfully request the rejection of claims 1-4 and 9-12 under 35 U.S.C. §103(a) be withdrawn.

At paragraph 5 of the outstanding Office Action of October 24, 2003, the Examiner rejected claims 6 and 14 under 35 U.S.C. § 103(a) as being unpatentable over Maissel et al. (U.S. Application 2003/0088872 A1) in view of Ellis (U.S. Application U.S. 2003/0149988). Applicants respectfully traverse the rejection.

Claims 6 and 14 depend from amended independent claims 5 and 13, respectively, and, due to such dependency, are also believed to be distinguishable from Maissel for at least the reasons previously described. The Examiner does not appear to rely on Ellis to overcome the above-identified deficiencies of Maissel. Therefore, claims 6 and 14 are believed to be distinguishable from the applied combination of Maissel and Ellis.

Applicants therefore respectfully request the rejection of claims 6 and 14 under 35 U.S.C. §103(a) be withdrawn.

At paragraph 6 of the outstanding Office Action of October 24, 2003, the Examiner rejected claims 7 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Maissel et al. (U.S. Application 2003/0088872 A1) in view of Darbee et al. (U.S. Patent No. 6,130,726). Applicants respectfully traverse the rejection.

Amended independent claim 7, recites in part, “A remote operating system wherein a communication terminal device and an information receiving device are adapted to communicate with each other...**transmitting means for transmitting to a program selection apparatus program selection information upon selection of one of said program lists in said program guide information by a user on said communication terminal device.**” (Underlining and Bold added for emphasis.)

The Examiner admits that Maissel fails to disclose, “an apparatus that comprises a second transmitting means for exchanging information via remote control and communicating means, the remote control comprising...receiving means for receiving the searched program guide information...” The Examiner then relies on Darbee to overcome the deficiencies of Maissel. However, Darbee’s disclosure does not overcome the deficiencies of Maissel. Darbee does not teach or suggest the additional limitation of amended independent claim 7.

Darbee discloses a remote control unit having a graphic display for depicting program scheduling and/or advertising information without causing an interruption in content that is being depicted on an associated television monitor (column 2, lines 45-50). In contrast, in the present invention, the user can request the electronic program guide that he/she has created by using a communication terminal device that can be operated from a remote location to access

that program guide at that remote location. Also, the communication terminal device is a two-way communication device. Firstly, it can receive the electronic programming guide data (from IRD, Internet, EPG server, etc.) and secondly it can utilize that received data to control the program selection apparatus (i.e., to act as a remote control to change the channels) at the remote location to access desired programs. Darbee does not allow the user to remotely access the electronic program guide that the user has created and also does not use a communication terminal device as a two-way communication device to utilize such EPG data at the remote location. Therefore, amended independent claim 7 is believed to be distinguishable from the applied combination of Maissel and Darbee.

For similar reasons described above, it is also believed that amended independent claim 15 is also distinguishable from the applied combination of Maissel and Darbee as applied by the Examiner.

Applicants therefore respectfully request the rejection of claims 7 and 15 under 35 U.S.C. §103(a) be withdrawn.

At paragraph 7 of the outstanding Office Action of October 24, 2003, the Examiner rejected claims 8 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Maissel et al. in view of Darbee et al. and further in view of Ellis et al.. Applicants respectfully traverse the rejection.

Claims 8 and 16 depend from amended independent claims 7 and 15, respectively, and, due to such dependency, are also believed to be distinguishable from Maissel and Darbee for at least the reasons previously described. The Examiner does not appear to rely on Ellis to overcome the above-identified deficiencies of Maissel and Darbee. Therefore, claims 6 and 14 are believed to be distinguishable from the applied combination of Maissel and Darbee.

Applicants therefore respectfully request the rejection of claims 8 and 16 under 35 U.S.C. §103(a) be withdrawn.

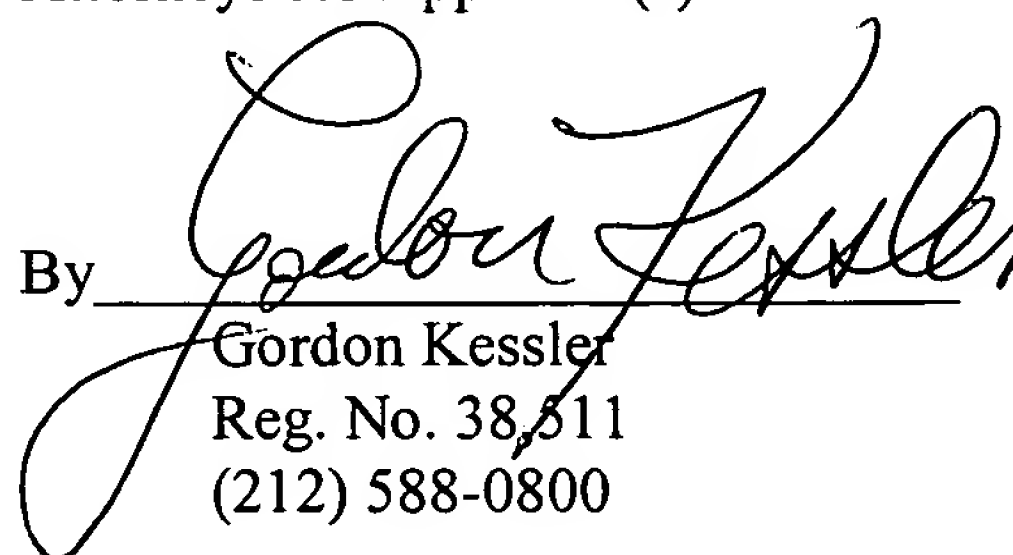
Applicants have further added new claims 17-40. Applicants submit that the 35 U.S.C. 102(e)/103(a) rejections relied upon by the Examiner do not apply to claims 17-40, and submit that the rejection of these claims over 35 U.S.C. 102(e)/103(a) would be improper.

The Examiner has made of record, but not applied, several U.S. Patents. The Applicants appreciate the Examiner's explicit finding that these references, whether considered alone or in combination with others, do not render the claims of the present application unpatentable.

It is to be appreciated that the foregoing comments concerning the disclosures in the cited prior art represent the present opinions of the applicant's undersigned attorney and, in the event, that the Examiner disagrees with any such opinions, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicant(s)

By 
Gordon Kessler
Reg. No. 38,511
(212) 588-0800